



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[EPA-R07-OAR-2015-0790; FRL 9964-04-Region 7]

Approval of Missouri's Air Quality Implementation Plans;

Reporting Emission Data, Emission Fees and Process Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule and correcting amendment.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the Operating Permits Program for the State of Missouri submitted on March 16, 2015. These revisions update the emissions fee for permitted sources as set by Missouri Statute from \$40 to \$48 per ton of air pollution emitted annually, effective January 1, 2016. EPA is also responding to comments received on the proposed action published in the **Federal Register** on January 15, 2016. In addition, EPA is making a correction to the previous direct final rule published in the **Federal Register** on January 15, 2016. EPA inadvertently approved and codified this action under both part 52 (Approval and Promulgation of Implementation Plans) and part 70 (State Operating Permit Programs). This final rule removes the part 52 approval and codification and makes a clarification to the part 70 approval relating to the state effective date.

DATES: This final rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**].

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2015-0790. All documents in the docket are listed on the <http://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically at www.regulations.gov or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information. For additional information and general guidance, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Amy Algoe-Eakin, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at 913-551-7942, or by email at algoe-eakin.amy@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," or "our" refer to EPA. This section provides additional information by addressing the following:

- I. What is Being Addressed in this Document?
- II. EPA's Response to Comments.
- III. What Action is EPA Taking?

I. What is Being Addressed in this Document?

EPA is taking final action to approve the state's Title V revision to 10 C.S.R. 10-6.110 "Reporting Emission Data, Emission Fees, and Process Information", submitted by the state of Missouri on March 16, 2015. This revision updates the emissions fee for permitted sources as set by Missouri Statute. Specifically, section (3) (A) revises the emission fees section, which is approved under the Operating Permits Program only, and updates the emissions fee for permitted sources as set by Missouri Statute from \$40 to \$48 per ton of air pollution emitted annually, effective January 1, 2016.

In addition, EPA is making a correction to the previous direct final rule published in the **Federal Register** on January 15, 2016 (81 FR 2090). In that action, EPA inadvertently approved and codified the state's submission relating to Missouri rule 10 CSR 6.110(3) (a) pursuant to 40 CFR part 52 (Approval and Promulgation of Implementation Plans) and part 70 (State Operating Permit Programs). This action corrects the error by recodifying table (c) of §52.1320 back to its previously approved and codified entry (76 FR 77701, 12/14/11). EPA is only approving this action pursuant to 40 CFR part 70 per the state's submission request. Also, the January 15, 2016,

direct final rule approved and added new paragraph (ee) to part 70 appendix A. The new paragraph (ee) erroneously listed the state effective date of November 20, 2014. The correct state effective date is March 30, 2015. This final action revises paragraph (ee) to read as set out in the regulatory text below.

II. EPA's Response to Comments

The public comment period on EPA's proposed rule (81 FR 2159, January 15, 2016) opened January 15, 2016, the date of its publication in the **Federal Register**, and closed on February 16, 2016. During this period, EPA received one comment.

Comment: The commenter expressed concern with the intent to increase fees on pollutant emissions and the subsequent use of those fees once collected. The commenter understood that the fees were collected to fund the state's regulatory activities. However, the commenter questioned how those funds would be used by the state and expressed that the EPA "should insure the first result of spending any fees be protecting human health and the environment" and "unless strict rules are imposed and regular performance audits conducted in a transparent and open way, higher fees would be an incentive for regulators to allow greater pollutant loads with the simple objective of collecting more fees to support their staff and to increase staff size."

EPA Response: CAA section 502(b)(3)(A) 42 U.S.C. 7661a (b)(3)(A) requires the permitting authority to collect a fee sufficient to

cover all reasonable direct and indirect costs required to develop and administer the Title V permit program, including enforcement. The CAA and agency regulation 40 CFR 70.9 require permitting authorities to submit a fee demonstration with their Title V operating permits program. EPA has approved Missouri's Title V permit program fee and determined it meets the requirements of the CAA and EPA guidance regarding the fee demonstration. The fees also include costs associated with all aspects of the Title V permit program (reviewing applications, emissions, ambient monitoring, preparing regulations, modeling).

III. What Action is EPA Taking?

Upon review and consideration of comments received, EPA is taking final action to approve the state's Title V revision to 10 C.S.R. 10-6.110 "Reporting Emission Data, Emission Fees, and Process Information", submitted by the state of Missouri on March 16, 2015. Based upon review of the state's revision and relevant requirements of the CAA, EPA believes that this revision meets applicable requirements and does not adversely impact air quality in Missouri.

EPA is also making a correction which will remove approval of the state's submission from 40 CFR part 52, specifically §52.1320(c), EPA-Approved Missouri Regulations and revert to the previously codified table (76 FR 77701, 12/14/11). This action also revises paragraph (ee) part 70, appendix A to correct the

state effective date.

IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Missouri amendments to 40 CFR part 52 set forth below. Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully Federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the **Federal Register** in the next update to the SIP compilation.¹ EPA has made, and will continue to make, these materials generally available through www.regulations.gov and/or at the EPA Region 7 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to

¹ 62 FR 27968 (May 22, 1997).

approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The action is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the

Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter,

Reporting and recordkeeping requirements, Sulfur oxides,
Volatile organic compounds.

40 CFR Part 70

Environmental protection, Administrative practice and
procedure, Air pollution control, Intergovernmental relations,
Operating permits, Reporting and recordkeeping requirements.

Dated: June 12, 2017.

Edward H. Chu,
Acting Regional Administrator,
Region 7.

For the reasons stated in the preamble, EPA amends 40 CFR parts 52 and 70 as set forth below:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 52.1320, paragraph (c) is amended by revising the entry for 10-6.110 to read as follows:

§52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-Approved Missouri Regulations

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
* * * * *				
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
* * * * *				
10-6.110	Submission of Emission Data, Emission Fees, and Process Information	9/30/10	12/14/11, 76 FR 77701	Section (3) (A), Emissions Fees, has not been approved as part of the SIP
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PART 70 - STATE OPERATING PERMIT PROGRAMS

3. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

4. Appendix A to part 70 is amended by revising paragraph (ee) under Missouri to read as follows:

**Appendix A to Part 70 - Approval Status of State and Local
Operating Permits Programs**

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Missouri

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(ee) The Missouri Department of Natural Resources submitted revisions to Missouri rule 10 CSR 10-6.110, "Reporting Emission Data, Emission Fees, and Process Information" on March 16, 2015. The state effective date is March 30, 2015. This revision is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**].

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[FR Doc. 2017-13547 Filed: 6/28/2017 8:45 am; Publication Date: 6/29/2017]